

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
WESTERN DIVISION

In re:

SUSAN M. ALDEN

*Debtor.*

Case No. 08-43558-HJB  
Chapter 7

JOHN A. BURDICK, CHAPTER 7 TRUSTEE

*Plaintiff,*

v.

Adversary Proceeding  
No. 09-4116-HJB

LBM FINANCIAL, LLC

*Defendant*

**JOINT MOTION TO APPROVE COMPROMISE OF  
CLAIM TO AVOID RECOVER MONEY/PROPERTY**

The Plaintiff, John A. Burdick, Jr. Chapter 7 Trustee (the “Trustee”) of the above-captioned debtor, Susan M. Alden (the “Debtor”) and plaintiff in the above-captioned adversary proceeding, and LBM Financial, LLC, defendant in the above-referenced adversary proceeding (the “Defendant”), hereby move this Court to approve the compromise of the Trustee’s claims against the Defendant. In support of this motion, the parties respectfully represent as follows:

1. On October 31, 2008 (the “Petition Date”), the Debtor filed an original, voluntary petitions under chapter 7 of the title 11 of the United States Code.
2. On July 6, 2009, the Trustee filed his complaint in the above-captioned adversary proceeding against the Defendant, in which complaint the Trustee alleged that the Defendant is indebted to the Debtor in the sum of \$18,000.00 on account of loans made by the Debtor to the Defendant, and sought collection of that sum from the Defendant for the benefit of the Debtor’s bankruptcy estate.

3. The Defendant maintains that all sums received from the Debtor were to participate in certain loans made by the Defendant to third party individuals and/or entities, and were not direct loans. Specifically, the Debtor participated in:

- a. a loan made by the Defendant to Paul B. Morely, Trustee of the 107-109 Pond Street Realty Trust (a/k/a 102-104 Pond Street Realty Trust), on or about June 30, 2004, in the original principal sum of \$458,000.00 (the "Pond Street Loan"), and
- b. a loan made to Cambridge Kitchen & Bath Designs, LLC, on or about August 24, 2004, in the original principal sum of \$25,000.00 (the Cambridge Kitchen Loan").

4. The Debtor's participation interest in the Pond Street Loan was \$8,000.00 of the original \$458,000 loaned, or 1.7%. Two third-party participants have participation interests in the Pond Street Loan equal to \$225,000 of the \$458,000 loaned, or 49.15% each. The Pond Street Loan is in default, and is secured by a first mortgage on the real estate located at 102-104 Pond Street, Attleboro, Massachusetts. The Defendant does not have any direct participation interest in the Pond Street Loan.

5. The Debtor's participation interest in the Cambridge Kitchen Loan was \$10,000.00 of the original \$25,000 loaned, or 40%. The remaining participation interests in the Cambridge Kitchen Loan are held by the Defendant. The borrower's obligation under the Cambridge Kitchen Loan was supported by a guaranty executed by the borrower's principal, which was in turn secured by a junior mortgage on property located at 3 Ledge Road, Barrington, Rhode Island. The holder of the senior mortgage on the property securing the guaranty, resulting in no distribution to the Defendant on account of its junior mortgage.

Subsequently, the individual guarantor of the obligations under the Cambridge Kitchen Loan filed a voluntary petition under chapter 7 of the Bankruptcy Code, and received a discharge.<sup>1</sup>

6. The Trustee and the Defendant been engaged in discussions regarding resolution of this matter, and, in order to avoid the costs of litigation, the parties have agreed to settle all matters in this adversary proceeding as follows:

- a. The Defendant shall promptly resume foreclosure proceedings with respect to the mortgage securing the Pond Street Loan, and shall prosecute such foreclosure with reasonable diligence. Upon the completion of the sale of the property encumbered by such mortgage, Defendant shall pay the sum of \$7,500.00 to the Trustee.. The Defendant shall be responsible for all costs associated with the foreclosure proceedings.
- b. The Defendant shall effect the assignment the Defendant's interest in that certain loan made by the Defendant to Julie B. Norman, on or about June 30, 2004, in the original principal sum of \$25,000.00, including the promissory note, and all other loan documents (the "Cambridge Kitchen Loan"), to the Trustee for the benefit of the Debtor's bankruptcy estate.
- c. Any recovery realized by the Trustee on the indebtedness evidenced by the Cambridge Kitchen Loan without regard to the interests of any other participants shall be retained by the Trustee for the benefit of the Debtor's bankruptcy estate.
- d. In return for the consideration specified above, the Plaintiffs consent to the dismissal of this adversary proceeding, with prejudice, and without costs to either party.

7. The Trustee submit that the foregoing settlement is in the interests of the estate and its creditors because: (a) it effects the recovery of the that portion of the proceeds of the Pond Street Loan that are property of the bankruptcy estate for the benefit of creditors; (ii) gives the estate the opportunity to retain the benefit of any recovery under the Cambridge Kitchen Loan; and (ii) (b) the settlement obtains such recovery without significant litigation expense and

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<sup>1</sup> Bankr. D.R.I. Chapter 7 Case No. 06-10451-ANV

without the uncertainties of litigation; and (c) the settlement finally resolves the matters raised in this adversary proceeding.

WHEREFORE, the parties respectfully request that the Court enter an order: (i) approving the settlement set forth herein and dismissing this adversary proceeding, with prejudice and without costs to either party, and (b) granting such and other relief as the Court deems just and proper.

JOHN A. BURDICK,  
CHAPTER 7 TRUSTEE

By his counsel,

/s/ John A. Burdick, Jr.  
John A Burdick, Jr. (BBO #547650)  
679 Pleasant Street  
Paxton, MA 01612  
(508) 752-4633

LBM FINANCIAL, LLC

By its counsel,

/s/ Philip F. Coppinger  
Philip F. Coppinger (BBO #641664)  
LBM Financial, LLC  
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November 22, 2010

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
WESTERN DIVISION

In re:

BROOKFIELD GROUP, L.L.C., et al.

Debtors.

BROOKFIELD GROUP, L.L.C., et al.

*Plaintiffs*

v.

GE POLYMERLAND, INC.

*Defendant*

Chapter 11

Jointly Administered Under

Case No. 04-40413-HJB

Adversary Pro. No. 06-4033

**STIPULATION**

WHEREFORE, on July 6, 2009, John A. Burdick, Chapter 7 Trustee (the “Trustee”) of the above-captioned debtor (the “Debtor”), filed his complaint seeking recovery, pursuant to 11 U.S.C. § 550, of certain sums advanced by the Debtor to LBM Financial, LLC (the “Defendant”) for the purpose of participating in certain loans made by the Defendant to third-party borrowers; and

WHEREFORE, the Plaintiffs and the Defendant have agreed to resolution of this matter by agreement in order to avoid the costs of litigation;

Therefore the Plaintiffs and the Defendant hereby agree as follows:

- a. The Defendant shall promptly resume foreclosure proceedings with respect to the mortgage securing the Pond Street Loan, and shall prosecute such foreclosure with reasonable diligence. Upon the completion of the sale of the property encumbered by such mortgage, Defendant shall pay the sum of \$7,500.00 to the Trustee. The Defendant shall be responsible for the costs associated with the foreclosure proceedings.

- b. The Defendant shall effect the assignment the Defendant's interest in that certain loan made by the Defendant to Julie B. Norman, on or about June 30, 2004, in the original principal sum of \$25,000.00, including the promissory note, and all other loan documents (the "Cambridge Kitchen Loan"), to the Trustee for the benefit of the Debtor's bankruptcy estate.
- c. Any recovery realized by the Trustee on the indebtedness evidenced by the Cambridge Kitchen Loan without regard to the interests of any other participants shall be retained by the Trustee for the benefit of the Debtor's bankruptcy estate.
- d. In return for the consideration specified above, the Plaintiffs consent to the dismissal of this adversary proceeding, with prejudice, and without costs to either party.

AGREED this 22<sup>nd</sup> day of November, 2010.

JOHN A. BURDICK,  
CHAPTER 7 TRUSTEE

By his counsel,

/s/ John A. Burdick, Jr.  
John A Burdick, Jr. (BBO #547650)  
679 Pleasant Street  
Paxton, MA 01612  
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LBM FINANCIAL, LLC

By its counsel,

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SUSAN M. ALDEN

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*Plaintiff,*

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No. 09-4116-HJB

LBM FINANCIAL, LLC

*Defendant*

**CERTIFICATE OF SERVICE**

I, Philip F. Coppinger, certify that, immediately upon receipt of the notice of electronic service, I will serve a copy of the foregoing Motion to Approve Compromise of Claim to Recover Money/Property by first class mail, postage prepaid to any of the parties on the attached service list not noted as having received electronic service on the Notice of Electronic Filing.

/s/ Philip F. Coppinger

Philip F. Coppinger

**Service List**

John A. Burdick, Jr.  
679 Pleasant Street  
Paxton, MA 01612

U.S. Trustee's Office  
446 Main Street  
Fourth Floor  
Worcester, Massachusetts 01608

American Express Centurion Bank  
c/o Beckett & Lee LLP  
POB 3001  
Malvern, PA 19355  
46 Gage Street, Apt. #2  
Worcester, Massachusetts 01605

GE Money Bank  
c/o Recovery Management Systems Corp.  
25 SE 2<sup>nd</sup> Ave., Suite 1120  
Miami, FL 33131  
Attn: Ramesh Singh

HSBC Bank Nevada, N.A.  
Bass & Associates, P.C.  
3936 East Ft. Lowell Road, Suite 200  
Tucson, AZ 85712